

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 12 of Title 50 of the Official Code of Georgia Annotated, relating to commissions and other agencies, so as to create the Public Authority Ethics Board; to define certain terms; to provide for membership of such board; to provide for officers and administrative matters; to provide for powers and duties of such board; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 12 of Title 50 of the Official Code of Georgia Annotated, relating to commissions and other agencies, is amended by adding a new article to read as follows:

"ARTICLE 9

50-12-150.

As used in this article, the term:

(1) 'Authority' means any public authority created by general law.

(2) 'Board' means the Public Authority Ethics Board created by this article.

50-12-151.

(a) There is created the Public Authority Ethics Board, with such duties and powers as are set forth in this article.

(b) The board shall be governed by six members appointed as follows: two members, who shall not be from the same political party, shall be appointed by the Governor, one for a term of three years and one for a term of two years; one member shall be appointed by each majority leader of the Senate and House of Representatives for terms of four years; and one member shall be appointed by each minority leader of the Senate and House of Representatives for terms of three years. The initial members shall take office on July 1,

2008. Upon the expiration of a member's term of office, a new member, appointed in the same manner as the member whose term of office expired as provided in this subsection, shall become a member of the board and shall serve for a term of four years and until such member's successor is duly appointed and qualified. If a vacancy occurs in the membership of the board, a new member shall be appointed to the unexpired term of office by the official who appointed the vacating member. Members of the board shall not serve for more than one complete term of office.

(c) All members of the board shall be residents of this state.

(d) Any person who:

(1) Has been a member or employee of any public authority subject to this article within a period of five years prior to such person's appointment;

(2) Has held any state or local public office within a period of five years prior to such person's appointment; or

(3) Serves as an officer of any political party, whether such office is elective or appointive and whether such office exists on a local, state, or national level

shall be ineligible to serve as a member of the board.

(e) The board shall elect a chairperson, a vice chairperson, and other officers as it deems necessary. The members shall not be compensated for their services but they shall be reimbursed in an amount equal to the per diem received by the General Assembly for each day or portion thereof spent in serving as members of the board. They shall be paid their necessary traveling expenses while engaged in the business of the board.

(f) A majority of the members of the board constitutes a quorum for the transaction of business. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the board. No vacancy in the membership of the board impairs the right of a quorum to exercise all rights and perform all duties of the board.

(g) Meetings of the members of the board shall be held at the call of the chairperson or whenever any two members so request.

50-12-152.

The funds necessary to carry out this article shall come from the funds appropriated to and available to the Public Authority Ethics Board and from any other available funds. The board shall be a budget unit as defined in Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act'; provided, however, that the board shall be assigned for administrative purposes only to the Secretary of State.

1 50-12-153.

2 The board is vested with the following powers:

- 3 (1) To meet at such times and places as it may deem necessary;
- 4 (2) To contract with other agencies, public or private, or persons as it deems necessary
- 5 for the rendering and affording of such services, facilities, studies, and reports to the
- 6 board as will best assist it to carry out its duties and responsibilities;
- 7 (3) To cooperate with and secure the cooperation of every department, agency, or
- 8 instrumentality in the state government or its political subdivisions in the furtherance of
- 9 the purposes of this article;
- 10 (4) To employ an executive secretary and such additional staff as the board deems
- 11 necessary to carry out the powers delegated to the board by this article;
- 12 (5) To issue subpoenas to compel any person to appear, give sworn testimony, or
- 13 produce documentary or other evidence;
- 14 (6) To institute and prosecute actions in the superior courts, in its own name, seeking to
- 15 enjoin or restrain any violation or threatened violation of this article;
- 16 (7) To adopt in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
- 17 Procedure Act,' such rules and regulations as are necessary to carry out the purposes of
- 18 this article; and
- 19 (8) To do any and all things necessary or convenient to enable it to perform wholly and
- 20 adequately its duties and to exercise the powers granted to it.

21 50-12-154.

22 The board shall have the following duties:

- 23 (1) To accept and file any information voluntarily supplied that exceeds the requirements
- 24 of this article;
- 25 (2) To make investigations upon receipt of the written complaint of any person with
- 26 respect to any alleged violation of any provision of law. Nothing in this Code section
- 27 shall be construed to limit or encumber the right of the board to initiate on probable cause
- 28 an investigation on its own cognizance as it deems necessary or appropriate;
- 29 (3) To establish procedures for filing complaints and to require a filing fee not to exceed
- 30 \$100.00;
- 31 (4) To request the state auditor to conduct a complete and thorough audit of any authority,
- 32 and such request shall be given priority treatment;
- 33 (5) To conduct a preliminary investigation of the merits of a written complaint by any
- 34 person who believes that a violation of law has occurred. If there are found no reasonable
- 35 grounds to believe that a violation has occurred, the complaint shall be dismissed, subject
- 36 to being reopened upon discovery of additional evidence or relevant material. If the

board determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The board may file a complaint charging violations of any provision of law, and any person aggrieved by the final decision of the board is entitled to judicial review in accordance with Chapter 13 of Title 50; provided, however, that nothing in this Code section shall be construed to limit or encumber the right of the board to initiate on probable cause an investigation on its own cognizance as it deems necessary or appropriate;

(6) To report suspected violations of law to the appropriate law enforcement authority;

(7) To issue orders, after the completion of appropriate proceedings, prohibiting the actual or threatened commission of any unlawful conduct, which order may include a provision requiring the violator to cease and desist from committing further violations;

(8) To petition the superior court within the county where the hearing was or is being conducted for the enforcement of any order issued in connection with such hearing; and

(9) To carry out the procedures, duties, and obligations relative to the board set forth in this article.

50-12-155.

The board shall order the removal of any member of an authority which the board by majority vote finds by clear and convincing evidence to have committed the acts or omissions with which he or she has been charged. The appointing authority shall fill any such post in the manner provided for the filling of a vacancy. The finding of the board shall not be admissible in a criminal trial based on the same facts. The board shall immediately dismiss a complaint if the person charged voluntarily resigns his or her position.

50-12-156.

If an appointing authority by majority vote certifies to the board that a member of an authority has demonstrated a pattern of activity in variance with published purposes and goals of the appointing authority, the board shall take such evidence as the board deems appropriate and shall be authorized to order the removal of the member if the evidence so dictates."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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- 2 All laws and parts of laws in conflict with this Act are repealed.